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EXAMINER
LE, MIRANDA

ART UNIT	PAPER NUMBER
2177	

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No. 09/706,651	**Applicant(s)** WHITMYER, WESLEY W.
	Examiner Miranda Le	**Art Unit** 2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2004*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This communication is responsive to Amendment C, filed 01/26/2004.

2.   Claims 1-15 are pending in this application. Claims 1, 4, 7, 10 are independent claims.

In the Amendment C, claims 10-15 have been added, and no claim has been amended. This

action is made Final.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the invention was
> made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of
the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various
claims was commonly owned at the time any inventions covered therein were made absent any
evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out
the inventor and invention dates of each claim that was not commonly owned at the time a later
invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)
and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4.   Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubacher et

al. (US Patent No. 6,571,280), in view of Langford et al. (US Patent No. 6,574,733).

As per claim 1, Hubacher teaches "A system for onsite backup of internet-based data

comprising: a central computer; a client computer" at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

"a communications link between said central computer and the Internet; communications

link between said client computer and the Internet" at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

"software executing on said central computer for receiving a data backup request from said client computer" at col. 6, lines 15-30, col. 7, lines 12-22;

"software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer" at col. 6, lines 15-30.

Hubacher does not expressly teach "at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number". However, Langford teaches this limitation at col. 5, lines 28-45.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hubacher with the teachings of Langford to include "at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number" in order to provide systems and methods that perform centralized secure backup of data.

As per claim 4, Hubacher teaches "A system for onsite backup of internet-based data comprising: a central computer; a client computer" at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

"a communications link between said central computer and the Internet; a communications link between said client computer and the Internet" at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

"software executing on said central computer for receiving commands from said client computer" at col. 6, lines 15-30, col. 7, lines 12-22;

"software executing on said central computer for generating a data backup request" at col. 6, lines 15-30, col. 7, lines 12-22;

"software executing on said central computer for transmitting said data backup request through the internet" at col. 6, lines 15-30, Fig. 1;

"software executing on said central computer for receiving a reply to said data backup request" at col. 6, lines 15-30, Fig. 6, step 610;

"software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer" at col. col. 6, lines 15-30, Fig. 9, step 922.

Hubacher does not expressly teach the following limitations. However, Langford teaches:

"at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number" at col. 5, lines 28-45;

"software executing on said central computer for receiving data from said client computer" at col. 5, lines 28-45;

"software executing on said central computer for storing said received data in said database" at col. 5, lines 28-45;

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hubacher with the teachings of Langford to include "at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number; software executing on said central computer for receiving data from said client computer, software executing on said central computer for storing

said received data in said database" in order to provide systems and methods that perform

centralized secure backup of data.

As per claim 7, Hubacher teaches "A system for onsite backup of internet-based data

comprising: a central computer; a client computer" at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

"a communications link between said central computer and the Internet; a

communications link between said client computer and the Internet" at col. 3, lines 8-40, col. 4,

lines 1-44, Fig. 1;

"software executing on said central computer for receiving commands from said client

computer, for receiving data from said client: computer, and for storing said data in said

database" at col. 6, lines 15-30, col. 7, lines 12-22;

"software executing on said central computer for transmitting said data backup to said

client computer for onsite backup of internet-based data on said client computer" at col. col. 6,

lines 15-30, Fig. 9, steps 910, 922.

Hubacher does not expressly teach the following limitations. However, Langford

teaches:

"at least one database containing a plurality of data records accessible by said central

computer, each data record containing a client identification number" at col. 5, lines 28-45;

"software executing on said central computer for receiving a data backup request and for

receiving a data format conversion request" at col. 3, lines 9-27;

"software executing on said central computer for retrieving said data from said database and for converting said data to a format corresponding to said data format conversion request" at col. 3, lines 9-27;

"software executing on said central computer for encrypting said data backup" at col. 2, lines 39-65, col. 6, lines 12-39;

"software executing on said client computer for decrypting said data backup" at col. 6, lines 12-39.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hubacher with the teachings of Langford to include all the limitations addressed above in order to provide systems and methods that perform centralized secure backup of data that allow only the owner of the data to be able to decrypt any information stored during the process so that the third party repositories and other unauthorized personnel cannot readily decrypt the information.

As per claim 10, Hubacher teaches "A system for local storage of data through the Internet comprising: a central computer connected to the Internet; a client computer connected to the Internet" at col. 3, lines 8-67, Fig. 1;

"at least one storage having a plurality of client data records, said at least one storage accessible by said central computer" at col. 3, lines 8-67;

"a client data request, sent from said client computer via the Internet to said central computer" at col. 6, lines 15-25, col. 7, lines 12-22;

"client data corresponding to said client data request, sent from said central computer via

the Internet to said client computer and saved on said client computer" at col. 3, lines 21-24, col.

7, lines 36-38, col. col. 6, lines 15-30, Fig. 9, steps 910, 922.

Hubacher does not expressly teach "each client data record having an identifier that

relates the client data record to a client". However, Langford teaches this limitation at col. 3,

line 65 to col. 4, line 5.

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the teachings of Hubacher with the teachings of Langford to include "each client data

record having an identifier that relates the client data record to a client" in order to provide a

secure data backup system that allows only the owner of the data to be able to decrypt any

information stored during the process so that the third party repositories and other unauthorized

personnel cannot readily decrypt the information.

As to claims 2, 5, 8, Langford teaches "software executing on said client computer for

storing said data backup in a location accessible to said client computer" at col. 5, lines 28-45,

col. 6, lines 12-39.

As to claims 3, 6, 9, Hubacher teaches "software executing on said central computer for

retrieving said data backup" at col. 6, lines 15-30, Fig. 6, steps 602-610.

As per claim 11, Langford teaches "said client data is encrypted prior to being sent to

said client computer to be saved thereon" at col. 3, line 9 to col. 4, line 59.

As per claim 12, Langford teaches "a data format conversion request, sent from the client computer to said central computer" at col. 4, lines 6-59.

As per claim 13, Langford teaches "said central computer converts said client data to a format corresponding to said data format conversion request" at col. 4, lines 6-59.

As per claim 14, Langford teaches "the conversion of said client data to a format corresponding to said data format conversion request occurs prior to said client data being sent from the client computer to said central computer" at col. 4, lines 6-59.

As per claim 15, Langford teaches "said client data is encrypted prior to being sent to said client computer to be saved thereon" at col. 6, lines 11-54.

Response to Arguments

5.   Applicant's arguments filed 03/10/2003 have been fully considered but they are not persuasive.

Applicant argues that:

(a) Neither the '280 patent (Hubacher) nor the '733 patent (Langford) teach/suggest "software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer" as required by claims 1, 4, 7.

(b) Neither the '280 patent (Hubacher) nor the '733 patent (Langford) teach/suggest

"software executing on said central computer for receiving a data backup request from said client

computer" as required by claim 1.

(c) Neither the '280 patent (Hubacher) nor the '733 patent (Langford) teach/suggest "a

data backup corresponding to said data backup request, sent from said central computer via the

Internet to said client computer and saved on said client computer" as required by claim 10.

(d) Neither the '280 patent (Hubacher) nor the '733 patent (Langford) teach/suggest

"software executing on said central computer for receiving a data backup request and for

receiving a data format conversion request" as required by claim 7.

The Examiner respectfully disagrees for the following reasons:

Per (a), Hubacher teaches "software executing on said central computer (i.e. servers 104,

114, 116, 118) for transmitting said data backup to said client computer (i.e. clients 108, 110,

112) for onsite backup of internet-based (network 102) data on said client computer" at col. 6,

lines 12-64, col. 3, lines 21-24, col. 6, lines 15-30, Fig. 9, step 902-922. That is, the process

starts with the operating system has received a file read request (i.e. from a client computer),

(col. 6, lines 15-16), and ends with server is responsive at path destination (i.e. client computer),

(Fig. 9, step 910), and server completes requested read (Fig. 9, step 922). Note that Hubacher

discloses these servers provide data (i.e. data backup), such as boot files, operating system,

images, and applications to clients 108, 110, 112 (col. 3, lines 21-24).

Per (b), Hubacher teaches "software executing on said central computer for receiving a

data backup request from said client computer" at col. 7, lines 12-23. Moreover, as shown in

Fig.1, Hubacher teaches a system for client sided backup comprises a central computer (i.e.

servers 104, 114, 116, 118), and a client computer (i.e. clients 108, 110, 112). Hubacher teaches

a data backup request from a client computer as "F:\CONFIG_SYS is the local request from the

client perspective (col. 7, lines 12-22). Hubacher teaches the software executing on a central

computer (i.e. server 104) for receiving a data backup request, the backup IFS driver initially

routes the read request to \\Server1\alias\config.sys. (col. 7, lines 12-22). It should be understood

that "read request" corresponds to a data backup request from a client computer" (i.e. the

operating system receives a file request, then is alerted to the backup IFS driver, and then calls

the backup IFS driver, col. 6, lines 16-21).

Per (c), Hubacher teaches "a data backup corresponding to said data backup request, sent

from said central computer via the Internet to said client computer and saved on said client

computer" at col. 3, lines 21-28, col. 6, lines 21-25, Fig. 1, Fig. 6, step 610, Fig. 9, steps 910,

922, Fig. 10, steps 1010, 1018. That is, after the requested file has been called, the IFS driver

reads a file redirection table contained within the backup IFS driver for the requested file. The

backup IFS then remaps a destination path in accordance with the destination location (i.e. client

computer) for the requested file (col. 6, lines 21-26). A determination is then made as to whether

the server located at the path destination is responsive to the file request (i.e. whether the

supporting server responds to a client request for support for a particular data backup), if the

server is responsive, the process ends (i.e. data backup support requested by a client is responded

to by the supporting server) (col. 6, lines 27-30). It should be noted that since servers 104, 114,

116, 118 provide data (i.e. data backup), such as boot files, operating system, images, and

applications to clients 108, 110, 112 (col. 3, lines 21-24), these files should be saved on the client

computer. For example, if a client wants to backup his/her operating system, one skilled in the

art would understand that all the system files in the operating system must be saved on the client

computer. In addition, Hubacher discloses that in write operation, the right side describes all of

the destination locations (i.e. a client side) that the write operation needs to execute (col. 7, lines

36-38).

Per (d), Hubacher is directed to a method and apparatus for <u>client sided</u> backup.

Hubacher teaches central computer receives a data backup request as mentioned above in (a), (b),

(c); however, Hubacher does not specifically teach a data format conversion request. Langford is

directed to <u>a centralized secure backup system</u>. Langford teaches software executing on said

central computer for receiving a data backup request and for receiving a data format conversion

request at col. 3, lines 55-58. As seen in Fig. 1, Langford discloses the process 12 (i.e. central

computer) analyzes the backup data to determine which data is to be encrypted for secure backup

(col. 3, lines 58-60), and backup policy data is also used to determined whether backup data is to

be encrypted, since <u>not all data needs to be encrypted and may be left in plain text form if desired</u>

(col. 3, lines 55-58). It should be understood that a format conversion request is interpreted as

"encrypted" or "plain text". And this request is received by central computer 202 from client

200a.

Since both Hubacher and Langford teach the same field as providing backup systems and

methods, it would have been obvious to one of ordinary skill in the art to combine the teachings of Hubacher with the teachings of Langford to include "software executing on said central computer for retrieving said data from said database and for converting said data to a format corresponding to said data format conversion request" in order to provide a secure data backup system that employs a suitable level of cryptographic security while affording a centralized backup of data (Langford, col. 2, lines 11-13).

Arguments as raised are moot since all claim limitations relevant to this issue have been addressed accordingly.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Miranda Le whose telephone number is (703) 305-3203. The

examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John E. Breene, can be reached on (703) 305-9790. The fax number to this Art Unit

is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be

directed to the Group receptionist whose telephone number is (703) 305-3900.

Miranda Le
April 2, 2004

GRETA ROBINSON
PRIMARY EXAMINER